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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,708	11/19/2001	Glen D. Caby	1023-011US01	7472
28863	7590	06/28/2005	EXAMINER	
SHUMAKER & SIEFFERT, P. A. 8425 SEASONS PARKWAY SUITE 105 ST. PAUL, MN 55125			MULLEN, KRISTEN DROESCH	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/992,708	Applicant(s) CABY ET AL	
	Examiner Kristen Mullen	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/13/05 (Response).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 9-14 and 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15-22 and 29-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/13/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 15-21, 29-30, 32, and 34-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al. (6,547,730).

Regarding claims 1, 15, Lin shows a method and processor readable medium containing instructions comprising: transmitting a USB token packet to a first module of a medical device when the first module has a data packet to transfer, receiving the data packet from the first module; and transferring the data packet to a second module of the medical device using a USB protocol (Claims 12, 15, 18). Rosenberg (5,734,373) shows that USB protocol includes a token packet followed by a data packet, which is followed by a handshake packet (Col. 45, lines 5-11).

With respect to claim 29, Lin shows a device comprising: a system control module (206), a plurality of functional modules (2024); and a system bus (202) coupled to the system control module and to the plurality of functional modules, the system bus arranged to transfer data packets between the functional modules and the system control module according to a USB protocol (Col. 5, lines 15-29; Fig. 2).

Regarding claims 2, 16, and 38, Takinosawa (2003/ 0035473) shows that encoding data packets utilizing a NRZI encoding scheme is a component of USB protocol (Para. 0025).

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With respect to claims 3, 17, and 39, Pasumansky (6,826,639) shows USB protocol includes control, isochronous, interrupt, and bulk transfer modes (Col. 1, line 62-Col. 2, line 34).

Regarding claim 4, and 18, Pasumansky (6,826,639) shows USB protocol dictates that when one module does not have a data packet to transfer, it sends a indication to the second module which is received by the second module (Col. 1, line 62-Col. 2, line 34).

With respect to claims 5, 19, and 40, Fensore (6,415,343) shows USB protocol includes assigning addresses to each module (Col. 1, lines 57-60)

Regarding claims 6, 20, and 41, Lin shows associating at least one pipe (202) with each of the first and second modules (Fig. 2).

With respect to claims 7, 21, 30, 32-33 and 34, Lin shows the medical device comprises at least one of a user interface module (210) communicatively coupled with a keyboard and a patient parameters module (204) (Fig. 2).

Regarding claim 35, Lin shows the patient parameters module (204) is configured to obtain at least one of vital sign measurements.

With respect to claims 36-37, Lin shows the plurality of functional modules comprises an expansion module (208) comprising a simple device to communicate data with at least one device external to the medical device system (Fig. 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 22, 31, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (6,547,730) in view of Owen et al. (6,148,233). Lin is as explained before. Although Lin fails to show the medical device is a defibrillator or the therapy control module comprises a defibrillator electrode, attention is directed to Owen et al. which shows a defibrillator with multiple modules that communicate with one another including a therapy control module including a defibrillation electrode (Fig. 8). It would have been obvious to one with ordinary skill in the art at the time the invention was made to employ the USB data transfer protocol of Lin for the communication between modules of Owen et al., wherein so doing would amount to mere substitution of one functional equivalent for another that would work equally well on the Owen et al. device.

Response to Arguments

5. Applicant's arguments with respect to claims 1-8, 15-22, and 29-42 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's request for clarification for the basis for rejecting the claims under 35 U.S.C. 102(e) utilizing three additional references, the examiner has utilized the three additional reference to explain the inherent features of USB protocol that were not explicitly disclosed in the Greeven et al. or Lin et al. references. For further reference, see MPEP 2131.01.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



kdm

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